

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JESSE G. COOPER, in his Personal
Capacity and as Personal Representative of
the Estate of PAULA LEE JEFFERSON,
deceased, et al.,

Plaintiff,

v.

WHATCOM COUNTY, a political
subdivision of the State of Washington, et
al.,

Defendant.

CASE NO. 2:20-cv-01196-TL

ORDER GRANTING THE
PARTIES' STIPULATED MOTION
TO SEAL

This matter comes before the Court on the parties' re-filed stipulated motion to seal Exhibit 57 to the Declaration of Ryan D. Dreveskracht (the "Exhibit") submitted in support of Plaintiffs' motion for partial summary judgment. Dkt. No. 126. In the Court's Order denying the parties' previous stipulated motion, the Court ordered the parties to file a corrected motion that complied with LCR 5(g)(3)(B)'s requirement to include a "specific statement of the applicable legal standard and the reasons for keeping a document under seal." Dkt. No. 121.

1 A “strong presumption of access to judicial records applies fully to dispositive pleadings,
 2 including motions for summary judgment and related attachments.” *Kamakana v. City & Cty. of*
 3 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). In such circumstances, the “compelling interest”
 4 test applies, where the party seeking protection must show that their interests in sealing the
 5 document “outweigh the public's interest in disclosure and justify sealing . . . [such as when the]
 6 files might [] become a vehicle for improper purposes, such as the use of records to gratify
 7 private spite, promote public scandal, circulate libelous statements, or release trade secrets.”
 8 *Animal Legal Def. Fund v. Olympic Game Farm, Inc.*, 2022 WL 73865, at *1 (W.D. Wash. Jan.
 9 7, 2022) (quoting *Kamakana*, 447 F.3d at 1179).

10 Here, the parties have stipulated that the Exhibit was part of a confidential personnel
 11 record that contains information that could lead to personal embarrassment and injury. Dkt. No.
 12 126 at 2-3. The parties also note that RCW 42.56.230(3) exempts from public inspection
 13 “[p]ersonal information in files maintained for employees, appointees, or elected officials of any
 14 public agency to the extent that disclosure would violate their right to privacy.”¹ The parties
 15 further stipulate that the document, a record from 1987, would no longer be available to the
 16 public pursuant to state records retention requirements. *Id.* at 2 (citing State Government General
 17 Records Retention Schedule Version 6.2 (August 2021), [state-government-general-records-](https://www.wa.gov/sites/default/files/2021-08/state-government-general-records-retention-schedule-v.6.2-(august-2021).pdf)
 18 [retention-schedule-v.6.2-\(august-2021\).pdf](https://www.wa.gov/sites/default/files/2021-08/state-government-general-records-retention-schedule-v.6.2-(august-2021).pdf) (wa.gov)).

21 ¹ To be clear, the Court does not conclude that the fact that this document might otherwise be exempt from
 22 disclosure under the Washington Public Records Act automatically justifies sealing it in this judicial proceeding. *Cf.*
 23 *Friedman v. Bache Halsey Stuart Shields, Inc.*, 738 F.2d 1336, 1344 (D.C. Cir. 1984) (“Statutes insulating
 24 information from publication are aimed at the broadcasting of sensitive information to the general populace; the
 statutes are not intended to enjoin the limited kind of disclosure encountered in judicial proceedings.”); *see also*
Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1185 (9th Cir. 2006) (“[FOIA] exempt documents are not
 automatically privileged in civil discovery.”). Instead, the Court references this exemption only as one unopposed
 factor going to the privacy interest of the party seeking protection that must be weighed against the strong
 presumption of public access in judicial proceeding under the compelling interest test.

1 The Exhibit concerns a disciplinary incident that is nearly thirty-five years old, the terms
2 of the disciplinary order were fully complied with, there are no outstanding implications related
3 to the disciplinary action, and the record has likely been expunged from the public record. Under
4 these circumstances, the Court finds, on balance, the parties have asserted a compelling interest
5 in keeping the Exhibit filed under seal.

6 The Court therefore GRANTS the parties' stipulated motion to seal and ORDERS that
7 Exhibit (Dkt. No. 114) shall remain sealed.

8 IT IS SO ORDERED.

9 Dated this 9th day of February 2022.

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11 Tana Lin
12 United States District Judge
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